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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,726	01/23/2004	Michael Majchrzak	032016-0128	7340

26371 7590 10/19/2006

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EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/763,726

Applicant(s)

MAJCHRZAK ET AL.

Examiner

Joseph M. Pelham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-22, 24, 26, 28, 29, 42, 43, 49, 50, 60, 62, 63, 65, 69, 70 and 72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-22, 24, 26, 28, 29, 42, 43, 49, 50, 69, 70 and 72 is/are allowed.
- 6) ☒ Claim(s) 60 and 63 is/are rejected.
- 7) ☒ Claim(s) 62 and 65 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/11/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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The Examiner acknowledges Applicant's submission of the amendment filed 8/11/06. Claims 19-22, 24, 26, 28, 29, 42, 43, 49, 50, 60, 62, 63, 65, 69, 70, and 72 are now pending.

The Examiner notes with chagrin that further review of the claims has determined that certain of the claims previously indicated to be allowable are in fact anticipated or obvious over the prior art. He sincerely regrets any inconvenience.

Claim Rejections - 35 USC § 102

Claim 60 is rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 6114659 or US Pat. 4038968.

Referring to Fig. 2 and col. 3, lines 19-46; US'659 discloses a food warming container comprising a duct system (30) circulating air in a single loop (90, 95, 98) across the opening to form an air curtain (90), so that air travels from the curtain through the container and adjacent the food item therein, and is received by an opening 26 in the duct system.

Referring to Figs. 1 & 2 and col. 2, lines 21-37, US'968 discloses a food warming container comprising a duct system (5) circulating air in a single loop across the opening to form an air curtain, and the air stream necessarily travels from the curtain through the container and adjacent the food item therein, and is received by an opening 10 in the duct system.

Claim Rejections - 35 USC § 103

Claim 63 is rejected under 35 U.S.C. 103(a) as being obvious over US'659 or US'968 in view of US Pat. 5532456.

The claim differs from US'659 or US'968 only in calling for humidified container. US'456 discloses a humidified food container. It would have been obvious to adapt humidification means to the container of US'659 or US'9687 to prolong the storage time of the foods placed therein without drying them.

Allowable Subject Matter

Claims 62 and 65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-22, 24, 26, 28, 29, 42, 43, 49, 50, 69, 70, and 72 are allowed.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

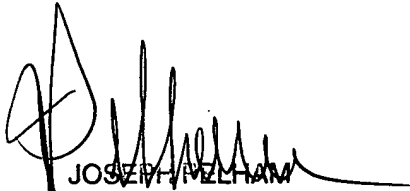
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

10/11/06


JOSEPH PELHAM
PRIMARY EXAMINER